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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Applicant: Yann LeGallo

Serial No.: 10/092,363

Examiner: Redman, Jerry E.

Filed: March 5, 2002

Group Art Unit: 3634

Title: ANTI-ENTRAPMENT DEVICE FOR CABLE-DRIVEN WINDOW LIFTING
MECHANISM

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APPEAL BRIEF UNDER 37 C.F.R. § 1.192

Sir:

This is an Appeal Brief under 37 C.F.R. § 1.192 appealing the Final Rejection of the Primary Examiner dated August 26, 2003. Each of the topics required by 37 C.F.R. § 1.192 is presented in this Brief and is labeled appropriately.

The Commissioner is authorized to charge the \$330 filing fee to Deposit Account No. 50-1482, in the name of Carlson, Gaskey & Olds, P.C. If any additional fees or extensions are due, please charge Deposit Account No. 50-1482.

I. REAL PARTY IN INTEREST

Meritor Light Vehicle Systems-France is the real party in interest of the present application. An assignment of all rights in the present application to Meritor Light Vehicle Systems-France was executed by the inventor and recorded by the U.S. Patent and Trademark Office at **Reel 013418, Frame 0170.**

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II. RELATED APPEALS AND INTERFERENCES

There are no appeals or interferences related to the present application of which the Appellants are aware.

III. STATUS OF CLAIMS

Claims 1, 4 and 16, which are presented in the Appendix, stand finally rejected. The Examiner also objected to claims 17-19 and allowed claims 5-15. Accordingly, the Appellants hereby appeal the final rejection of claims 1, 4 and 16.

IV. STATUS OF AMENDMENTS

A proposed After Final Response under 37 C.F.R. § 1.116 was filed by Appellant on October 27, 2003. The Examiner entered the proposed After Final Amendment in an Advisory Action dated November 13, 2003.

V. SUMMARY OF INVENTION

The invention is directed to a window lifting mechanism 1 having a cable 2 connected to a window glass via a slide member 12. The slide member 12 transmits a drive force to lower and raise the window. The cable passes over a drive pulley 6 of a motor 7. Two fixed end stops 8, 9 are located on the path of cable 2, between the motor 7 and the upper direction-changing pulley 4. A sensor 11, such as a pressure sensor, is disposed between the slide member and one of the end stops 8, 9.

VI. REFERENCES OF RECORD

In the Final Rejection of August 26, 2003, the Examiner relied upon the following prior art reference: German patent 19847080 to Sesselmann ("Sesselmann").

VII. ISSUES

The issue in this Appeal is:

1. whether claims 1, 4 and 16 are anticipated under 35 U.S.C. § 102(b) by German Patent 19847080 to Sesselmann ("Sesselmann").

VIII. GROUPING OF CLAIMS

For purposes of this Appeal:

1. Claim 1 stands or falls alone;
2. Claim 4 stands or falls alone;
3. Claim 16 stands or falls alone.

IX. ARGUMENTS

Claims 1, 4 and 16 were rejected under 35 U.S.C. § 102(b) as being anticipated by German patent 19847080 to Sesselmann ("Sesselmann"). Appellant respectfully asserts that this rejection is improper.

1. Claim 1 is not anticipated by Sesselmann

The Examiner finally rejected claim 1 under 35 U.S.C. § 102(b) as being anticipated by Sesselmann. In the Final Office Action and the Advisory Action, the Examiner asserted that Appellant's arguments distinguishing the claimed "end stop" from the channel 24 shown in Sesselmann are more limiting than the claims. More particularly, the Examiner argued that the claimed end stop should not be limited to "a stop structure on an end of the cable" (Advisory Action, page 2). The Examiner then argued that element 24 in Sesselmann is the same as the claimed end stop structure. Appellant respectfully disagrees.

As noted during prosecution, element 24 in Sesselmann is clearly labelled as a channel and cannot be considered an end stop because a channel is designed to guide a cable while

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allowing the cable to move freely through it. As can be seen in Figures 2a through 2c of Sesselmann, the ends 6, 7 of the cable 5 are left free from attached structures, let alone end stop structures. Instead, the cable 5 moves through the channel 24; the channel 24 itself is not operatively coupled to the end of the cable, nor does it act as a stopping structure. Thus, it is not clear how the channel 24 could be considered an "end stop" when it is neither at a cable end nor acts as a stop.

The claimed term "end stop" clearly defines a structure disposed at an end of a cable (see, e.g., specification page 9, line 30 to page 10, line 23) according to its broadest reasonable interpretation. MPEP § 2111. The term "end stop" obviously refers to a stop structure on an end of the cable. Thus, by interpreting it as such, Appellant is not setting forth any arguments that are any more limiting than the claims as alleged by the Examiner. There is no other possible interpretation for the term "end stop" without ignoring the plain meaning of the term "end" or "stop."

The channel 24 in Sesselmann is not at an end of a cable, nor is it a stop structure, nor is it operatively coupled to the cable as a stop structure. The Office Action is not permitted to ignore the clear meaning of the claim language (i.e., the plain meaning of the words "end" and "stop") to support an anticipation rejection. Because Sesselmann fails to show the claimed end stop, it does not anticipate independent claim 1. Thus, the final rejection of claim 1 is improper and should be withdrawn.

2. Claim 4 is not anticipated by Sesselmann

The Examiner finally rejected claim 4 under 35 U.S.C. § 102(b) as being anticipated by Sesselmann. Claim 4 depends on patentable claim 1 and is therefore patentable for the reasons explained above. Because Sesselmann fails to disclose a window lifter mechanism having the claimed end stop structure, Sesselmann also fails to disclose a mechanism having the claimed processing module that supplies a signal representing trapping by the window glass. Thus, the final rejection of claim 4 is improper and should be withdrawn.

3. Claims 16 is not anticipated by Sesselmann

The Examiner finally rejected claim 16 under 35 U.S.C. § 102(b) as being anticipated by Sesselmann. Although Sesselmann mentions detecting a jam situation from a strain force acting on the traction element/cable 5, it is not clear whether the jam detected by Sesselmann is due to entrapment by the window glass lifting mechanism. Instead, Sesselmann generically refers to a jam without specifying what caused the jam. Thus, Sesselmann does not specifically disclose supplying a signal representing entrapment by the window glass. The final rejection of claim 16 is therefore improper and should be withdrawn.

X. CONCLUSION

In view of the arguments presented above, Applicant respectfully states that the final rejection of claims 1, 4 and 16 is improper and should be withdrawn.

Respectfully submitted,

CARLSON, GASKEY & OLDS, P.C.

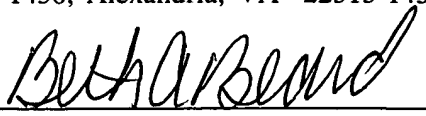
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Dated: January 26, 2004

CERTIFICATE OF MAILING

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Beth A. Beard

XI. APPENDIX

Claims on appeal

1. A window glass lifting mechanism comprising:

a sliding member for a window glass;

a cable for driving the sliding member for the window glass and connected to the sliding member;

a motor for driving the cable;

an end stop operatively coupled to the cable; and

a sensor disposed between the end stop and the sliding member, wherein the sensor measures tension in said cable by measuring the force exercised by the cable on the sliding member.

4. The window glass lifting mechanism according to claim 1, wherein the window glass lifter mechanism further comprises a processing module linked to the sensor and supplying a signal representing trapping by the window glass lifting mechanism.

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16. A method for determining entrapment by a window glass lifting mechanism having a sliding member for a window glass, a cable for driving the sliding member for the window glass and connected to the sliding member, a motor for driving the cable, a sensor measuring tension in said cable, the method comprising:

measuring a tension in the drive cable;

comparing the measured tension with an entrapment threshold; and

supplying a signal representing entrapment by the window glass lifting mechanism when the measured tension exceeds the threshold value.